

EXHIBIT 6

16

MR. SMITH: The People call Dan Brown.

17

THE FOREPERSON: Do you swear to tell the truth,

18

the whole truth, and nothing but the truth so help you

19

God in the case of The People of the State of New York

20

against Clement Campana, Dan Brown, John Brown, et

21

al.?

22

THE WITNESS: I do.

23

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24

DANIEL BROWN

25

Called as a witness herein by the People, having

1 Gonzalez to explain to her to make it easier to vote
2 you can fill out this form, someone will bring a
3 ballot to you. I could tell she felt slightly
4 intimidated, maybe uneasy.

5 Q What was it you observed about her demeanor or facial
6 expressions that makes you draw that conclusion, sir?

7 A She was hesitant to say yes I will sign this, or that
8 I will be voting, or I have voted in the past. She
9 didn't want to go.

10 Q Could you describe Yarelis Gonzalez?

11 A Very attractive, hispanic, brown-black hair.

12 Q What age?

13 A Early twenties, probably.

14 Q What happened next after Mr. McGrath came and asked --
15 or you know, tried to get Ms. Gonzalez to sign an
16 absentee ballot application?

17 A I could sense she was uneasy, so I kind of interjected
18 at that point and I explained what the process was. I
19 said, "You're not going to be able to vote on
20 Tuesday?"

21 She said, "No, I'm not."

22 I said, "Is there a reason why?"

23 She said, "I have to work."

24 I said, "Your employer has to give you time to
25 vote."

1 She said, "I work in Albany, but I take the bus."
2 Indicating that she now was definitely not going to be
3 able to take a bus back to Troy and go back to Albany.

4 I said, "If you want to complete this someone
5 will return a ballot before Tuesday and you'll be able
6 to vote." I checked the box for business, indicated
7 she had to work, gave her the clipboard, and she
8 completed the rest of the application.

9 Q Do you see on the monitor what appears to be -- let me
10 see if I can get this a little . . .

11 You see on the computer monitor what appears to
12 be a magnification of the document which you hold in
13 your hand, the absentee ballot application of Yarelis
14 Gonzalez?

15 A (Nodded head.)

16 Q You have to give a verbal response.

17 A Yes.

18 Q Does that appear to be an exact copy of the document
19 which you hold in your hands?

20 A It appears to be a copy.

21 Q Let's go through the top portion of the document which
22 is also shown on the monitor before the Grand Jury.
23 Do you recall who filled out the resident address in
24 Rensselaer County?

25 A Ms. Gonzalez did.

1 Q There is a field entitled "Delivery of primary
2 election ballot" Was that filled out at the time by
3 either yourself or Ms. Gonzalez?

4 A It was not filled out by me.

5 Q Can you explain to the Grand Jury why it was not
6 filled out?

7 A I did not know who would be returning the ballot to
8 her.

9 Q Now, and there's a second -- there are actually checks
10 placed on the indictment both for delivery of primary
11 election ballot and delivery of general election
12 ballot. Do you see those, sir?

13 A I do.

14 Q And it is your testimony that you did not place either
15 of those checks there or insert the name of Tony
16 DeFiglio?

17 A No.

18 Q You made none of those --

19 A No.

20 Q The X next to the field "business," that is your X,
21 sir?

22 A That's correct.

23 Q If you look to the right of that X and down a little
24 bit you'll see fields entitled Dates you'll be out of
25 Rensselaer County" and "Where will you be on Election

1 Day"?

2 A Yes, I see those.

3 Q Did you fill in the "Dates you will be out of
4 Rensselaer County"?

5 A No, I did not.

6 Q Do you know who did?

7 A No, I do not.

8 Q You did not witness your brother filling in those
9 "Dates you'll be out of Rensselaer County"?

10 A No, I did not.

11 Q "Where will you be on Election Day," was that field
12 filled out in your presence, sir?

13 A No, it was not.

14 Q And when you received the application from Ms.
15 Gonzalez that field was blank?

16 A Correct.

17 Q Can you explain to the Grand Jury why it was that you
18 did not fill out those particular fields?

19 A It was my understanding that when giving a reason for
20 being out of the county I generally interpret that as
21 being out of the area, because most people leave the
22 area all the time and come back to vote. I felt
23 adequate in checking business and that would be
24 acceptable to the Board of Elections.

25 Q And you'll see where the applicant has signed and the

1 date. Who made the entries next to date and
2 signature of voter?

3 A Ms. Gonzalez.

4 Q All right. I show you Grand Jury Exhibit 96, another
5 color laser photocopy. Do you recognize that
6 document, sir?

7 A I do.

8 Q Do you recognize that to be the absentee ballot
9 application of Kimberly Yando?

10 A I do.

11 Q And how is it that you recognize that document?

12 A Myself and Mr. Aldrich approached Ms. Yando's house.
13 Later in the day after we had visited Ms. Gonzalez's
14 house we drove up. By that time I had realized that
15 Mr. Aldrich's forte was not public speaking and
16 decided to initiate all the conversations at the door.
17 We knocked on the door, a woman who I believe would be
18 Ms. Yando's mother answered. We asked if Kim was
19 available, she said yeah, hold on, and Ms. Yando came
20 out.

21 Q Could you describe Ms. Yando?

22 A Very pregnant at the time, and had a black eye. I
23 don't know which side of her face it was on . . . I
24 feel like it was her left.

25 Q Do you remember the color of her hair?

1 A It was blondish-light brown.

2 Q Stature?

3 A Short. Shorter than myself; maybe five-four.

4 Q And did you have any conversation with Kim Yando, the
5 one who you've just described as being a pregnant and
6 having a black eye and blondish-brown hair?

7 A I asked her if she planned to vote on Tuesday. She
8 said, "No, I do not."

9 I said, "Would you like an absentee ballot to be
10 brought to you?" She said she would. I said, "If you
11 fill out the form someone will return the form to
12 you."

13 Do you want me to go further?

14 Q Please?

15 A She filled out the name and address, she signed and
16 dated the bottom. I'm not sure if it was either
17 before or after she completed that information, but it
18 might have been that she was pregnant and had a black
19 eye, when she said she would not -- she did not intend
20 to vote, so I checked the box "temporary illness."

21 Q And did her have a having a black eye also have
22 something to do with your checking the box "temporary
23 illness," or was that something external to your
24 decision?

25 A It was external to my decision.

1 Q Again, same questions as before: The delivery fields,
2 were those completed in your presence, sir?

3 A No, they were not. Again, I did not know who would be
4 returning the ballot to her.

5 Q Did you fill out those fields?

6 A I did not.

7 Q The check -- or excuse me, the X that is placed next
8 to "temporary illness," you made that entry, sir?

9 A I did.

10 Q You see where it says "Dates you will be out of
11 Rensselaer County"? Did you make those entries, sir?

12 A I did not.

13 Q Do you know whether your brother did?

14 A I do not, and still to this day do not know.

15 Q Then you see "Where will you be on Election Day"? Is
16 that your writing?

17 A No, it is not.

18 Q Did you fill that out?

19 A No, I did not.

20 Q Are you aware that Ms. Yando alleges that she did not
21 sign?

22 A I am aware of that; I disagree.

23 Q Have you had an opportunity -- first of all, you're
24 represented by Philip Steck?

25 A That's correct.

1 Q Have you had an opportunity to review Ms. Yando's
2 voter registration card?

3 A I have.

4 Q You're not a handwriting analyst?

5 A I am not.

6 Q But to your eyes, sir, what, if anything, did you
7 conclude from looking at the purported signature of
8 Kimberly Yando on her voter registration card and the
9 purported signature of Kimberly Yando on the absentee
10 ballot application?

11 A They could be the same.

12 Q Okay.

13 A I'm not an expert.

14 Q And in fact it is your testimony that she did sign?

15 A Yes, that's correct.

16 Q You don't know Ms. Yando?

17 A No. I've read all the affidavits pertaining to the
18 case as it relates to any houses I visited, and I know
19 that she did later state that Mr. Mirch came to her
20 house, picked her up, and brought her to vote.
21 Wouldn't be surprised if her recollection of whether
22 she signed this or not was reflected on conversations
23 with Mr. Mirch.

24 THE COURT: The witness has testified to hearsay
25 in the form of documents that he's reviewed. Let me

1 see if I can ask the question properly. I have to
2 instruct you to disregard that last piece.

3 Q Let me ask the you the question another way,
4 Mr. Brown. Are you aware that some other voters in
5 the case have also been mistaken or may have been
6 mistaken in prior statements indicating that they had
7 not signed their absentee ballot application when in
8 fact they had?

9 A I am aware of that.

10 Q Okay. I now show you what's been received in
11 evidence as Grand Jury Exhibit 77. Do you recognize
12 that document, sir?

13 A I do.

14 Q What do you recognize it to be?

15 A The absentee ballot application of Mr. Mark Welch.

16 Q And again, this is a color laser photocopy, it's not
17 the actual application; is that correct?

18 A That's correct.

19 Q All right. What is it that you recall, if anything,
20 regarding the solicitation of the application of mark
21 Welch?

22 A Mark Welch lives directly across from Ms. Gonzalez in
23 Corliss Park apartment. When we -- when Mr. Aldrich
24 and I arrived in Corliss Park that morning it was
25 actually the first name on our list that we came

1 across. Mr. Welch and a number of other residents of
2 the Corliss Park Apartments were outside sitting on
3 folding chairs, lawn chairs, just relaxing, hanging
4 out. I looked behind Mr. Welch and noticed that on
5 the door of his apartment was a Bob Mirch for County
6 Legislature sticker, and I looked at my sheet that
7 Mr. McGrath had mocked up and was surprised to have
8 Mr. Welch identified as a friendly.

9 Q Did you say marked up or mocked up?

10 A I don't know if there's a difference. Marked up, I
11 would say.

12 Q Just trying to help out the court reporter.

13 A I indicated to Mr. Aldrich the sticker in the window
14 and we agreed that Mr. McGrath must have made a
15 mistake in his judgment of who supported who. As I
16 indicated previously, Mr. McGrath had arrived while we
17 were visiting Ms. Gonzalez, we were ready to go on to
18 other houses when Mr. McGrath indicated we should go
19 talk to Mark Welch. I indicated the sticker in the
20 window. Mr. McGrath said, "Don't believe that, he's
21 supporting me." Then we went and approached Mr.
22 Welch.

23 Q When you say we --

24 A The three of us, Mr. Aldrich, myself, and Mr. McGrath,
25 started a conversation about his brother, where his

1 brother worked --

2 Q Who's brother?

3 A Mr. Welch's brother. I could tell they had a personal
4 relationship and knew each other, and I let
5 Mr. McGrath handle the conversation about filling out
6 the ballot. I handed them the --

7 Q You mean the application?

8 A I handed him the clipboard with the application,
9 Mr. McGrath handed it to Mr. Welch, Mr. Welch filled
10 out his name and address. It appears he filled out
11 the "Deliver To" line.

12 Q Did you actually see Mr. Welch fill out the resident's
13 address and "Deliver To" portions of the application,
14 or did you see him appear to be writing?

15 A I saw him appear to be writing. At the time, given
16 the conversation between Mr. Welch and Mr. McGrath was
17 taking some time, I moved to the house next door and
18 approached a woman named Jennifer Taylor who I noticed
19 on the list was also a Working Families party member
20 and was on our list of friendlies.

21 Q Okay. So, where were you in relation to Mr. Welch's
22 conversation?

23 A I was probably from here to that first chair away.

24 Q Approximately ten feet?

25 A Ten feet, so I did not personally witness exactly what

1 Mr. Welch wrote, but I saw him writing.

2 Q Okay. Now, you personally did not fill out the
3 address or "Deliver To" information, correct?

4 A That's correct.

5 Q And if you look up on the monitor you'll see the
6 bottom portion of the application in front of you.
7 Sir, in terms of the X next to "temporary illness,"
8 who made that mark?

9 A When Mr. McGrath returned the clipboard after talking
10 with Mr. Welch, based on the conversations I
11 overheard, Mr. Welch indicated he had diabetes. He
12 was a very obese man. I don't know if that's due to
13 his diabetes, but I checked it.

14 Q You did not make an entry under "Dates you will be out
15 of Rensselaer County"?

16 A No, I did not.

17 Q You did not make an entry under "difficulty walking
18 with advanced diabetes, permanently confined at home"?

19 A I did not make those, although that information is
20 correct, based upon what I witnessed.

21 Q Right but what I'm trying to clarify before the Grand
22 Jury those entries were not on that application when
23 you were done with that day, correct?

24 A No, I did not fill it out and it does not appear to be
25 Mr. Welch's handwriting.

1 Q Do you know whose handwriting is there next to the
2 date?

3 A Next to the date where? Which date?

4 Q Date next to signature of voter?

5 A That appears to be Mr. Welch's.

6 Q And then the signature, did you see him sign it or you
7 just believe he signed it?

8 A I believe he signed it; I did not witness it.

9 Q Okay.

10 A I was not over his shoulder looking at what he wrote,
11 but based on the time it took.

12 Q Based on the tenor of the general conversation you
13 believe he signed it?

14 A I believe that's his signature, yes.

15 Q You just mentioned an absentee ballot application of a
16 Jennifer Taylor?

17 A Correct.

18 Q Did you process that application, sir?

19 A No. As I said, I approached Ms. Taylor and asked her
20 whether she'd be voting on Tuesday. She indicated to
21 me that she would be camping with her boyfriend and
22 her child, and I asked her, "Well, if you're going to
23 be camping would you like to fill out an absentee
24 ballot application?"

25 She indicated she would and she started to fill

1 it out, and Mr. McGrath saw me having a conversation
2 and interrupted and said, "I already got one for her.
3 She's all set."

4 Q All right. Very good. Thank you.

5 A So that application was thrown away. It was crumpled
6 up.

7 Q I show you Grand Jury 65 in evidence. Do you
8 recognize that document, sir?

9 A I do.

10 Q What do you recognize it to be?

11 A It is a copy of the application of Terrance Conway.

12 Q Sir, did you personally solicit an absentee ballot
13 application from Terrance Conway on September 12th?

14 A On September 12th Mr. Aldrich and I visited the home
15 of s man who lives with Nadine Legace, I believe
16 that's how you pronounce her name.

17 Q Yes, sir?

18 A We approached the door. That's the last house we
19 visited that we garnered an application.

20 Q Do you remember what floor?

21 A It's a two-story house; I can't remember if it was a
22 split level, but I recall Ms. Legace came to the door,
23 I asked if she'd be voting on Tuesday or if Mr. Conway
24 would be voting on Tuesday, she indicated to me that
25 Mr. Conway was sick, just had a stroke, she's his care

1 giver, and neither her nor Mr. Conway would be leaving
2 the house to vote on Tuesday. I indicated that we
3 could get an absentee ballot to them, she said that
4 would be wonderful. She took the clipboard and
5 applications upstairs to their home. I didn't
6 witness anything that that was filled out on it when
7 she returned, if . . .

8 Q Okay. Now, does your handwriting appear anywhere on
9 the application of Terrance Conway?

10 A No, it does not.

11 Q And by handwriting I also mean checkmarks, X's;
12 anything of that nature?

13 A I understand, and no, it does not.

14 Q Finally, I show you Grand Jury Exhibit 68 in evidence.
15 Do you recognize that, sir?

16 A I do. It is the application -- copy of the
17 application of Ms. Nadine Legace.

18 Q Again, sir, same questions as with Mr. Conway's. Does
19 your handwriting appear anywhere on this absentee
20 ballot application?

21 A No, it does not.

22 Q There is a checkmark that you'll see next to vacation.
23 Did you place this checkmark there, sir?

24 A I did not.

25 Q Okay. Both applications were returned to you signed

1 as they appear on these applications, correct?

2 A Yes.

3 Q And the residence address and date of birth have been
4 filled out, correct?

5 A Correct. I'm sorry, did you say date of birth?

6 Q Yes, sir.

7 A I'm sorry. Yes.

8 Q Okay. All right. Did you obtain or do you have a
9 recollection of obtaining any other absentee ballot
10 applications in the Working Families party line that
11 morning that you recall?

12 A No. We visited other houses and either had people
13 who did not answer or people who indicated they would
14 be voting in person.

15 Q Let's talk about this a little bit because it may be
16 pertinent to the Grand Jury's consideration of your
17 credibility, sir.

18 A All right.

19 Q Did you have any occasion to visit any homes where the
20 person said that they did not want to vote by absentee
21 ballot?

22 A Yes.

23 Q Do you recall the names of any of those individuals?

24 A I do not. I remember it was a man, and this was a
25 house, again, that as Kevin McGrath had been kind of

1 driving around visiting houses I don't know if he was
2 keeping tabs on us, it was a very good friend of his.
3 I believe it was 7th Avenue, almost to the end where
4 it meets the Gurley Avenue. It was a guy -- young
5 man. When I say young, probably Kevin McGrath's age.
6 It appears they were high school friends. He
7 indicated he was going to the polls because he wanted
8 to support Kevin McGrath.

9 Q When you were done with your effort, how is it that
10 you knew you were done?

11 A I didn't know I was done. I wanted to be done.
12 Again, as I stated prior, I didn't believe this -- I
13 believed this to be a futile effort. I believed the
14 Working Families Party line was unwinnable, and was
15 showing up to put in an effort to make it appear my
16 brother and I were supporting the team effort.

17 It had started to rain. I don't know if it was a
18 spot shower or rained the rest of the day; I can't
19 remember. I indicated to Mr. Aldrich I thought we
20 should wrap it up, I was going to head home. He
21 didn't object. I returned him to his vehicle at
22 LoPorto's. I called Bill McInerny to find out where I
23 should bring these application.

24 Q What, if anything, did Mr. McInerny say to you?

25 A He said we're not done, we're still out. I believe he

1 was in Corliss -- I believe he was in Griswold
2 Heights. He said, "I'm going to keep going."

3 I said, "How do you want me to get these to you?"

4 He said, "Either track them down or leave with
5 your brother." I indicated I wasn't in the mood to
6 drive around Corliss Park -- excuse me, Griswold
7 Heights for 20 minutes to look for him, I would call
8 my brother and let him know I was leaving them at his
9 house.

10 I called my brother. He was still at the soccer
11 field. I let him know I was leaving five applications
12 on his kitchen table, and he said he would drop them
13 to Mac when he could.

14 Q Did you in fact give the absentee ballot applications
15 of Yarelis Gonzalez, Kimberly Yando, Mark Welch,
16 Nadine Legace, and Terrance Conway to your brother?

17 A Not physically. As I indicated I stopped by his
18 house, the front door was open -- it's a nice
19 neighborhood -- I walked in, grabbed a slice of pizza
20 they had leftover left on his kitchen table, and I
21 went home to watch the Notre Dame football game.

22 Q Did you make any alterations to the applications
23 between the time the voters gave them to you and the
24 time you dropped them off at your brother's kitchen
25 table?

1 A Yes -- no, I did not.

2 Q Did there come a time when William McInerny asked you
3 to mail certain absentee ballot envelopes?

4 A Prior to that Saturday. It was also prior to him
5 informing me that a group was going out to solicit
6 applications and ask people to go vote. For a few
7 weeks I had been bugging Mr. McInerny to get me a list
8 of new registered voters in the city because I'm
9 not -- I don't live in Troy and I don't have access to
10 the Board of Elections on a regular basis. I asked
11 him to get me that list from Mr. McDonough at the
12 Board of Elections so I could add it to our strategy
13 moving forward into the general election. He said he
14 would do that. I had been bugging him for a few
15 weeks, maybe a week before primary day, so the Tuesday
16 or Wednesday before that following Tuesday.

17 Q So that would be sometime around September 8th or 9th?

18 A Yeah, before that weekend. He had indicated that he
19 had the list of new voters that I had been looking
20 for, and he said, "If you want to stop by my office I
21 can give it to you."

22 I said, "Okay. I'll swing by."

23 I stopped over at his office in City Hall. He
24 said, "Here's the list." We chitchatted about local
25 politics, nothing of any importance. He said, "I

1 can't leave City Hall right now and I want to get
2 these in the mail. Would you drop these in the mail
3 for me?"

4 I said, "Sure."

5 Q What were these?

6 A These were a stack of absentee ballots. They had been
7 sealed and he was just asking me to get postage and
8 put them in the mail.

9 Q So the envelope -- the ballots themselves would have
10 been in the absentee ballot envelope?

11 A Correct.

12 Q And sir, do you remember when it was that you mailed
13 those envelopes?

14 A If I saw him on Wednesday they were probably mailed
15 Thursday or Friday. I didn't mail them immediately.

16 Q So it was within a few days that you mailed them?

17 A That's correct.

18 Q Did you put the postage on the envelope?

19 A I did.

20 Q How did you put the postage on the envelope?

21 A I went to the post office. I actually not knowing
22 who these ballots were in support of or how they were
23 garnered I indicated to Mr. McInerny I wasn't paying
24 for the postage. I said, "Do you got money for
25 postage?" He gave me five, six bucks, whatever it

1 would have been. Following day I went to the post
2 office in Albany near my work, bought postage stamps
3 and stuck them to the ballots and put them in the
4 mailbox.

5 Q Sir, do you remember the design of the postage stamp?

6 A I do not remember. It's whatever the post office
7 clerk gave me, but based on review of the material in
8 this case it's been indicated that those are purple
9 heart stamps.

10 Q And you're aware that there are certain absentee
11 ballot envelopes that were generated from absentee
12 ballot applications filed on September 10th all with
13 purple heart stamps on them, correct?

14 A I'm not aware of that.

15 Q September 10th would be about five days before the
16 primary. Does that still, you know, match up with
17 your general recollection of when it was that you
18 received the envelopes?

19 A It does not match up with when I received the
20 envelopes. I find -- I don't --

21 Q Because five days before would be Thursday?

22 A I don't recall how -- if I received the ballots on
23 Thursday I could say that that makes some sense.
24 Maybe I was off by a day, but within the general time,
25 and I received the ballots in the same day . . .

1 Q Don't worry about that part. That's something you
2 don't know about, correct?

3 A Correct.

4 Q Can you tell the Grand Jury as best you recall what
5 Mr. McInerny said to you when he handed you the
6 envelopes?

7 A He said, "I have these absentee ballot applications,
8 could you drop them off? I can't leave City Hall, and
9 I don't want Mirch to know I'm out working." is what
10 he said.

11 Q Was there anything he said in those comments that he
12 made to you that indicated to you that there was
13 something wrong with the absentee ballots contained in
14 the envelope?

15 A No.

16 Q Had you had any knowledge before the day that
17 Mr. McInerny handed you the ballot envelopes that
18 Mr. McInerny had previously engaged in fraud in
19 regards to absentee ballot applications and ballots?

20 A No.

21 Q I think I cut you off. I did not mean to, sir. I
22 wanted to get out the next question. What was it you
23 were getting ready to say before I cut you off?

24 A Mr. McInerny was a committeeman in District 3 of the
25 city, which is the northern most part of Hoosick

1 Street here. It would be normal for him to be
2 obtaining absentee ballots applications and ballots,
3 so when he indicated he had some for me to mail it was
4 not something that would raise a red flag for me as
5 being out of the norm.

6 Q Mr. Brown, I've got a few more questions for you then
7 the members of the Grand Jury may have questions for
8 you, and the way that works, the Grand Jury asks that
9 question to me because I have to make sure it's
10 phrased properly and legally, then I ask the question
11 and you respond to my question, all right?

12 A Yep.

13 Q Now, you came here to today with your brother,
14 correct?

15 A That's correct.

16 Q Are you aware, sir, that your brother is now a
17 cooperating witness with the prosecution?

18 A I am aware of that.

19 Q And you're aware that he has admitted that he has
20 testified falsely before this Grand Jury and testified
21 falsely in a civil proceeding before Mr. Lynch in a
22 statement to the New York State Police?

23 A Unfortunately I am aware of that as well.

24 Q Sir, because the Grand Jury has not heard that from
25 your brother yet I have to ask you this question